

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAYVEN JUSTICE,

No. C-14-01767 DMR

Plaintiff(s),

**ORDER TO SUBMIT SUPPLEMENTAL
BRIEFING IN SUPPORT OF MOTION
FOR DEFAULT JUDGMENT [DOCKET
NO. 12]**

v.

ICE KING ENTERPRISES LLC,

Defendant(s).

On July 7, 2014, Plaintiff filed a motion for default judgment. [Docket Nos. 11, 12.] Having reviewed that motion, this court determines that Plaintiff did not brief its entitlement to the entry of default judgment pursuant to the factors enumerated in the Ninth Circuit's decision in *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Plaintiff did not brief the issue of this court's personal jurisdiction over Defendant, nor did it address the adequacy of service on Defendant. *See In re Tuli*, 172 F.3d 707, 712 (9th Cir. 1999) (before assessing merits of motion for default judgment, court must confirm that it has subject matter jurisdiction over case and personal jurisdiction over parties, as well as ensure adequacy of service on defendant).

In order to recover damages after securing a default judgment, a plaintiff must prove the relief it seeks by submitting proper evidence by way of a sworn affidavit. *Bd. of Trs. of the Boilermaker Vacation Trust v. Skelly, Inc.*, 389 F. Supp. 2d 1222, 1226 (N.D. Cal. 2005); *see*

Pepsico, Inc. v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002) (citing *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987)).

Plaintiff shall submit additional briefing by **July 25, 2014**, to address the above deficiencies in the motion for default judgment. Any opposition or statement of non-opposition is due no later than **August 8, 2014**.

Please be advised that the previously-noticed hearing date on the motion of August 28, 2014 at 11:00 a.m. has been vacated. You are hereby notified that the hearing on the motion is set for **September 11, 2014 at 11:00 a.m.** the U.S. District Court, 1301 Clay Street, Oakland, California 94612. For courtroom number and floor information, please check the Court's on-line calendar at <http://www.cand.uscourts.gov> (click "Calendars - Judges' Weekly Calendars" link, then select Judge Ryu's calendar) or call Judge Ryu's Courtroom Deputy, Ivy Garcia, at (510) 637-3639, one week prior to the scheduled hearing.

Immediately upon receipt of this Order, Plaintiff shall serve Defendant with a copy of this Order and file a proof of service with the court.

IT IS SO ORDERED.

Dated: July 9, 2014

